

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION

HILTON C. MARTIN	§	
v.	§	CIVIL ACTION NO. 9:05cv132
WARDEN REESCANO, ET AL.	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE  
AND ENTERING FINAL JUDGMENT

The Plaintiff Hilton Martin, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

On June 29, 2005, the Magistrate Judge ordered Martin to pay an initial partial filing fee of \$2.33, pursuant to 28 U.S.C. §1915(b). Martin received a copy of this order on July 5, 2005, but did not comply, nor respond to the order in any way.

On August 22, 2005, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed without prejudice for failure to prosecute or to obey an order of the Court. The Magistrate Judge also observed that Martin had ample time in which to refile his lawsuit within the two-year limitations period.

Martin filed objections to the Magistrate Judge's Report on August 31, 2005. In his objections, he refers to receiving a court order on August 5, 2005, but may mean July 5; he says that at the time that he received the court's order, he did not have the legal assistance from other inmates which he had at the time of the filing of the lawsuit. He asks that "the issue be excused" and says that he will "no longer threaten the integrity of the judicial process," although the Magistrate Judge

specifically said that Martin had not done so. Martin made no mention of the filing fee in his objections and did not allude to the basis upon which the Magistrate Judge recommended dismissal. His objections are without merit.

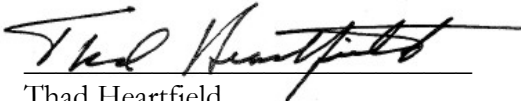
The Court has conducted a careful *de novo* review of the pleadings in this cause, the Report of the Magistrate Judge, the Plaintiff's objections thereto, and all other documents and filings in the record. Upon such *de novo* review, the Court has concluded that the Report of the Magistrate Judge is correct and that the Plaintiff's objections are without merit. It is accordingly

ORDERED that the Plaintiff's objections are overruled and the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil rights lawsuit be and hereby is DISMISSED without prejudice. It is further

ORDERED that any and all motions which may be pending in this civil action are hereby DENIED.

**SIGNED** this the 9 day of **September, 2005**.

  
Thad Heartfield  
United States District Judge